



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

TRG
Docket No: 253-99
7 April 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 4 April 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Marine Corps on 30 July 1953 at age 17. The record shows that you then served without incident until 8 February 1955. During the period from 8 February 1955 to 8 May 1956 you received nonjudicial punishment on four occasions and were convicted by two summary courts-martial and a special court-martial. Your offenses were an unauthorized absence of about eight hours, five instances of failure to go to your appointed place of duty, five instances of disobedience, and discharge of a firearm in the company area. A second special court-martial convened on 24 August 1956 and convicted you of one specification of disobedience. The court sentenced you to forfeiture of \$195 pay per month for three months, confinement at hard labor for three months and a bad conduct discharge. Subsequently, you waived your right to request restoration to duty. The bad conduct discharge was issued on 2 November 1956.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth, limited education, and the documentation you submitted showing that you have been a good citizen for many years. The Board also

considered your contention that racial discrimination was a factor in your case. The Board found that these factors and contentions were not sufficient to warrant recharacterization of your discharge given the frequency of your misconduct. The Board noted that after being convicted by court-martial of numerous offenses, including multiple instances of disobedience, you had to know the consequences of continuing that behavior. Therefore your last disobedience offense was considered to be indicative of willful misconduct. There is no evidence in the record, and you have submitted none, to show that racial discrimination was a factor in your case. The record shows that the offenses occurred at several different units with different commanders. This suggests that racial discrimination was not a factor in your case. The Board concluded that the discharge was proper as issued and no change is warranted.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director